

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

May 30, 2000

**D035321 Willie T. Sr. v. Superior Court San Diego County/San Diego County Health
and Human Services Agency**

The petition is denied. O'Rourke, J.; We Concur: Work, Acting P.J., Haller, J.

D035353 In re Mixon on Habeas Corpus

The petition is denied.

D034300 In re Denise L. et al., Juveniles

The judgment is affirmed. Nares, Acting P.J.; We Concur: Haller, J., McIntyre, J.

D033444 People v. Jones

The judgment is affirmed. Huffman, Acting P.J.; We Concur: McDonald, J., O'Rourke, J.

D031670 Finton et al. v. Ralphs Grocery Company

The judgment is affirmed. Kremer, P.J.; We Concur: Huffman, J., Nares, J.

D035357 Patterson v. Superior Court of San Diego County/People

The petition is dismissed without prejudice to refiling in the Second Appellate District.

D035356 In re Patterson on Habeas Corpus

The petition is dismissed without prejudice to refiling in the Second Appellate District.

D035385 In re Lopez on Habeas Corpus

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

May 31, 2000

D031986 People v. Oldham

The count 2 conviction for possession of meth is reversed. The trial court is directed to prepare a new order granting probation reflecting such reversal. In all other respects, the judgment is affirmed. CERTIFIED FOR PUBLICATION. Huffman, Acting P.J.; We Concur: Haller, J., McDonald, J.

D035332 In re Mora on Habeas Corpus

The petition is denied.

D035222 Farney v. Superior Court of San Diego County/People

The petition is denied.

D034797 Hunt et al. v. Superior Court of San Diego County/Commercial Money Center

Let a writ of mandate issue directing the Superior Court of San Diego County to vacate its order of December 9, 1999, and to enter a new and different order granting petitioners' motion to quash service of summons for lack of personal jurisdiction over petitioners. Petitioners shall recover costs incurred in connection with this writ proceeding. McDonald, J.; We Concur: Benke, Acting P.J., Nares, J.

D035664 Elliot v. Superior Court of San Diego County/Augustine Company et al.

The petition is denied. The request for judicial notice is denied as unnecessary to consideration of the writ of mandate.

D033409 People v. Zolezzi

The portion of the restitution order calling for Zolezzi to pay UCSD Medical Center \$17,360.52 in restitution is stricken. The case is remanded to the trial court with directions to re-visit the issue in accordance with the views expressed in this opinion. In all other respects, the judgment is affirmed. Haller, J.; We Concur: Nares, Acting P.J., McIntyre, J.

D035565 In re Lira on Habeas Corpus

The petition is denied.

D034074 BSND, Inc. v. BSR Associates LLC

The order is affirmed. Benke, J.; We Concur: Work, Acting P.J., McDonald, J.

D033093 Sebastian v. Medapproach et al.

The judgment as against Industries is affirmed. The judgment against the remaining appellants is reversed insofar as it awards damages for the breach of written contract claim against them. All parties to bear their own costs on appeal. McIntyre, J.; We Concur: Kremer, P.J., Haller, J.

D032563 People v. Cross

The judgment is affirmed. Haller, J.; We Concur: Nares, Acting P.J., McDonald, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

May 31, 2000 (continued)

D033061 People v. Zamaro

The judgment is modified such that the 20-year enhancement imposed under section 12022.53, subdivision (c) and the 10-year enhancement imposed under section 12022.53, subdivision (b) are stricken. It is affirmed in all other respects. McIntyre, J.; We Concur: Nares, Acting P.J., Haller, J.

D035151 In re Mitchell on Habeas Corpus

The petition for writ of habeas corpus is granted. The Department is directed not to apply the 15 percent credit limitation of section 2933.1 against Mitchell's sentence and to restore all credits that have been incorrectly limited under this section. McIntyre, J.; We Concur: Nares, Acting P.J., Haller, J.

D033361 Miranda v. The San Diego Housing Commission

The judgment is affirmed. Costs to respondent as prevailing party. O'Rourke, J.; We Concur: Huffman, J., McDonald, J.

D033132 People v. Bellack

The judgment is affirmed. Huffman, Acting P.J.; We Concur: Haller, J., McIntyre, J.

D033231 County of San Diego v. Sacks

The 1999 arrearages order and the 1999 motion order are affirmed. The County shall recover from Sacks its costs on appeal. Nares, J.; We Concur: Kremer, P.J., O'Rourke, J.

D033933 People v. Duran

Judgment affirmed. Nares, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

D032980 In re Adam L., a Juvenile

The juvenile court's order declaring Adam a ward is affirmed. O'Rourke, J.; We Concur: Work, Acting P.J., Nares, J.

D034540 In re Kayla H., a Juvenile

Judgment affirmed. Kremer, P.J.; We Concur: Nares, J., O'Rourke, J.

D032347 Alberts et al. v. Franklin et al.

D034874 Alberts et al. v. Ferrigno et al.

Submission of Alberts v. Franklin, D032347, on April 18, 2000 is vacated. Alberts v. Franklin, D032347 and Alberts v. Ferrigno, D034874 are consolidated under appellant court number D032347. Briefing in Ferrigno is to proceed in the normal course. In that the issues allegedly are the same in both cases and Franklin has already been orally argued, no further argument will be entertained. The cases will be submitted upon the filing of the appellants' reply brief or, if none is filed, the time to file the reply brief has run.

D033064 People v. Tucker

Judgment affirmed. Nares, J.; We Concur: Benke, Acting P.J., McIntyre, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

May 31, 2000 (continued)

D035117 In re David J., a Juvenile

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 17(a). The appeal is dismissed.

D032329 People v. Lockett

The petition for rehearing is denied.

D032416 People v. Mejia

The judgment is affirmed. Kremer, P.J.; We Concur: Huffman, J., O'Rourke, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

June 1, 2000

D034450 Adams v. Seelig et al.

The judgment is affirmed. Respondents are entitled to costs on appeal. McDonald, J.;
We Concur: Huffman, Acting P.J., Haller, J.

D034525 People v. McColley

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is
dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 38).

D033987 J. Michael Jensen Boat Sales, LTD. v. Krantz

The judgment is affirmed. Jensen is awarded costs on appeal. McDonald, J.;
We Concur: Benke, Acting P.J., Haller, J.

D034589 People v. Pacheco

The petition for rehearing is denied.

D033017 In re Marriage of Evans

Affirmed. Haller, J.; We Concur: Huffman, Acting P.J., McDonald, J.

D033478 People v. Mayer

Reversed. Haller, J.; We Concur: Huffman, Acting P.J., McDonald, J.

D033168 Calhoon v. Lewis et al.

Judgment affirmed. Appellant to bear costs on appeal. CERTIFIED FOR PUBLICATION.
Haller, J.; We Concur: Nares, Acting P.J., McIntyre, J.

D034236 People v. Mitchell

The trial court's true findings on the prior serious felony conviction allegations under section 667,
subdivision (a) (1) for enhancement purposes and under section 667, subdivision (b) through (i)
for purposes of the three strikes law are reversed. The matter is remanded to the trial court with
directions to enter "not true" findings for those allegations and to resentence Mitchell as may be
appropriate. CERTIFIED FOR PUBLICATION. Huffman, Acting P.J.; We Concur: Haller, J.,
McDonald, J.

D033254 National Enterprises, Inc. v. Jennings

Judgment affirmed. Jennings shall have costs. Work, Acting P.J.; We Concur: Benke, J.,
McIntyre, J.

**D035428 Rio Del Oro Condominium v. Superior Court of San Diego County/Western
Financial Bank**

The petition is denied.

**D035560 Erin M. V. Superior Court of San Diego County/San Diego County Health
and Human Services Agency**

The attorney for petitioner Erin M. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 39.1B will not be filed as there are no viable issues. The case is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

June 1, 2000 (Continued)

D028797 Chini v. Elfin Forest Village/Murat

D029616 Chini v. Elfin Forest Village/Murat

Upon filing a written abandonment of appeal, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 19(b)).

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

June 2, 2000

D033252 Henig v. Board of Trustees of the California State University

The judgment is affirmed. Benke, J.; We Concur: Work, Acting P.J., Huffman, J.

D034170 Estate of Sandra A. Root, Deceased.

Upon filing a written abandonment of appeal, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 19(b)).

D035355 In re Kelly on Habeas Corpus

The petition is denied.

D034742 People v. Haglund

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately.

D032876 Marriage of Umana and Rossier

The dissolution judgment is reversed insofar as it awards Rossier one-half of the lump-sum payment Umana received and the cause is remanded with instructions to enter a judgment awarding the entire lump-sum payment to Umana as his separate property and to make such other modifications of the judgment as are necessary in light of the separate character of the lump-sum payment. Each party to bear his or her own costs on appeal. Benke, Acting P.J.; We Concur: McDonald, J., O'Rourke, J.

D033196 Marriage of Montadon

The court's order is reversed insofar as it awards Todd an Epstein credit. The order is affirmed in all other respects and the matter is remanded for further proceedings in accordance with the views expressed herein. The court's order assessing sanctions against Nancy is reversed. Each party shall bear their own costs. Huffman, Acting P.J.; We Concur: Haller, J., O'Rourke, J.

D033736 People v. Katomski

D035132 In re Katomski on Habeas Corpus

The pending petition for writ of habeas corpus, In re Terry Norman Katomski, D035132, is consolidated with the pending appeal, People v. Katomski, D033736, for disposition.

D033736 People v. Katomski

D035132 In re Katomski on Habeas Corpus

The judgment is affirmed; the petition is denied. McIntyre, J.; We Concur: McDonald, Acting P.J., O'Rourke, J.

D034330 In re Noah G., a Juvenile

The order placing Noah in a licensed group home is reversed. In all other respects, the disposition is affirmed. O'Rourke, J.; I Concur: Benke, Acting P.J., I Concur and Dissent: McDonald, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

June 2, 2000 (continued)

D032418 People v. Wardlow

The order committing appellant as a sexually violent predator is affirmed. Benke, Acting P.J.;
We Concur: McDonald, J., O'Rourke, J.

D035324 In re Consiglio on Habeas Corpus

The petition is dismissed.

D034642 In re Macedo on Habeas Corpus

Pursuant to Penal Code section 1508, subdivision (b), an order to show cause why the relief prayed for in the petition and supplemental petition for habeas corpus should not be granted is issued, returnable to the San Diego Superior Court. The presiding judge of the superior court is ordered to appoint a judge of the superior court, other than Judge John M. Thompson, to hold an evidentiary hearing on the issues raised in the writ petitions, to make findings and to rule upon the merits of the matter as "the justice of the case may require." (Pen. Code, section 1484.) It is further ordered that on or before September 1, 2000, the judge who holds the hearing conducted pursuant to this order report the findings and rulings on the matter to this court. The oral argument set in this case for June 12, 2000, at 1:30 p.m. is vacated.